

United States v. Simon Gogolack
23-CR-99-JLS-JJM

Defendant's Exhibit C

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF NEW YORK
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5 UNITED STATES OF AMERICA)
6)

7 vs.

8 JOHN ERMIN,) Rochester, New York
9) December 19, 2023
10 Defendants. 3:30 p.m.
11 - - - - - X

12 **DETENTION HEARING**

13
14 TRANSCRIPT OF PROCEEDINGS
15 BEFORE THE HONORABLE ELIZABETH A. WOLFORD
16 UNITED STATES DISTRICT JUDGE
17

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P R O C E E D I N G
* * *

THE COURT: All right. Good afternoon,
everybody.

MR. TRIPI: Good afternoon, your Honor.

THE COURT: Why don't we have appearances
for the record?

MR. TRIPI: Joseph Tripi and paralegal Karen
Champoux for the United States.

THE COURT: And on behalf of the defendant?

MR. MUSCATO: George Muscato, and I have my
client John Ermin for the record.

THE COURT: And for the record, are you John
Ermin?

THE DEFENDANT: Yes.

THE COURT: And you're represented by Mr.
Muscato?

THE DEFENDANT: Yes, I am, your Honor.

THE COURT: My name is Judge Wolford. I'm
the district judge assigned to your case. And we have
Officer Zeller and Officer Nenni here from Probation.

So, I guess, Mr. Tripi, you've handed up a
hearing or exhibit booklet?

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2 THE CLERK: Yes.

3 MR. TRIPI: I have, your Honor. Many of the
4 exhibits the Court has already, but some are new just
5 since yesterday. I can read them into the record. I'm
6 proffering all of them. Defense has all of these
7 exhibits, but if you don't mind, I can lay out what's
8 there. Exhibits 1-A through 1-AV, inclusive. For
9 counsel's edification, 1-AT, 1-AU and 1-AV are new adds
10 in that one series. There are three new exhibits from
11 the prior hearing. 2-A through F, there are no new
12 exhibits in that series from the prior hearing. 3-A
13 through C, 3-C I believe is new. 4-A through C. 5-A
14 and B. 6-A and B. 7-A.

15 THE COURT: Are you saying -- you're just
16 saying what the exhibits are or saying --

17 MR. TRIPI: I'm moving them all into the
18 record formally.

19 THE COURT: Okay.

20 MR. TRIPI: I'll be proffering some of these
21 as we go. I didn't think I did a good job in the prior
22 hearing --

23 THE COURT: I will agree with you because I
24 looked at the transcript.

25 MR. TRIPI: -- what was in the record. 8-A

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through F; 9-A through K and 10-A and 10-B; Exhibit 11; 12-A through 12-B; 13-A through 13-C; 14-A through 14-C; 15-A through 15-N; 16-A and B; 17-A through D; 18-A through 18-I. Some of in that series are new from the prior hearing. 19-A through 19-F, some of those are new we added exhibits. 20-A through 20-H, which are photographs of vests, those are new exhibits. And 21 is a CD that has two videos, two different incidents. I should say two clips on one and four clips on the other. They were some of the videos we discussed yesterday. I know counsel wasn't here, but they will be the same videos that Mr. Cooper was proffering yesterday. We've now acquired those and we have those today. So they are short, I can show parts of the videos. They are up.

THE COURT: Okay.

MR. TRIPI: So I would make all of those exhibits which have all been provided to counsel and to the Court as part of the record for this detention hearing.

THE COURT: All right. Fair enough. So, it's the government's appeal. It is a de novo review in front of me. I will tell you what I've reviewed. I've reviewed the transcript of the proceedings in front of Judge Schroeder; I've reviewed the Notice of Motion

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2 filed by the government for review of Judge Schroeder's
3 determination; I've reviewed the bail report that was
4 prepared by the probation office that I think everybody
5 had previously. Yesterday, I don't know if this is part
6 of your exhibits, but in the exhibit book that was
7 handed up for Mr. Barnes, in the pocket was something
8 that has been marked Government Exhibit 7-A, which
9 appears to be the reports or an information related to
10 this alleged gang assault that occurred in April of
11 2010. So I took a look at this.

12 MR. TRIPI: I proffered the contents at the
13 original hearing. I didn't formally move the document
14 in. I don't think there was any harm in doing so
15 because the document was taken from Mr. Ermin's house
16 initially.

17 THE COURT: But is 7-A part of this booklet?

18 MR. TRIPI: It is.

19 THE COURT: I think that is it. I don't
20 think I have anything else. So go ahead.

21 MR. TRIPI: May I proceed?

22 THE COURT: Yes.

23 MR. TRIPI: Just to lay out the bases for
24 detention, we're moving under 18 U.S. Code Section
25 3142(f)(10)(A), 3142(f)(1)(E), 3142(f)(2)(A), and

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3142(f)(2)(B). Those are crime of violence, possession of a firearm, risk of flight and risk of obstruction of justice. I would agree with the Court's assessment from yesterday that the charge does not trigger a statutory presumption of flight or danger, however we believe when you assess all of the applicable factors that all of the factors the Court should consider when it considers pretrial detention weighing in the favor, those are the nature and circumstances of the offense, the weight of the evidence, the history and characteristics of the offender, and the nature and seriousness the defendant would pose to anyone in the community.

I was present for your comments yesterday as well, your Honor, so I did a little bit of research, so I have cases as it relates to position in an enterprise or organization. I would agree with the Court --

THE COURT: Hold on.

MR. TRIPI: I'm speaking quickly, I'll slow it down.

THE COURT: I guess I look at the *Enix* decision is my starting point.

MR. TRIPI: That is a good one to anchor to. I think --

THE COURT: And for Mr. Muscato's purposes,

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2 I issued a decision in a case, I handled the Kingsmen
3 case, there were several detention hearings that were
4 brought before me. I think the most contentious,
5 probably, the lengthiest was *United States v. Enix*. I
6 issued a pretty lengthy decision in that case where I
7 ultimately ended up releasing Mr. Enix.

8 MR. TRIPI: You did.

9 THE COURT: And I have a pretty lengthy
10 discussion in there of what I thought the relevant case
11 law was. But I'm interested in what you have.

12 MR. TRIPI: I think there may be a couple of
13 cases that I probably didn't cite before when you were
14 considering that. You probably observed them in your
15 research, but I nevertheless, I'll cite them just in
16 case. I think they do stand for the proposition, the
17 Court is correct that in terms of a per se leadership
18 position in a criminal enterprise, it's not sufficient
19 per se, but I think my argument I'd like to say that the
20 membership and leadership position is still a factor and
21 it should be a compelling one in this instance. So I
22 think with that caveat, I'd cite the Court to *United*
23 *States v. Cirillo*, 149 F. Appx. 40, Second Circuit 2005
24 unpublished. A panel affirmed the district court's
25 detention decision where the government showed the

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2 defendant was both a leader of an organized crime
3 enterprise and had a list of proposed organization
4 members found on the defendant's kitchen table and
5 indicated that was sufficient proof that the violent
6 enterprise was actively reinvigorating itself and that
7 the defendant was directly involved in the process.

8 THE COURT: Give me the cite again.

9 MR. TRIPI: *United States v. Cirillo*, 149 F.
10 Appx. 40. The pin cite for the reference I just made is
11 at page 43, and I think that case is going to have some
12 persuasive authority here.

13 THE COURT: What were the charges in that
14 case?

15 MR. TRIPI: That was -- it related to -- if
16 you just hold on one second, I'll get that, Judge. I
17 didn't write down on my notes here the list of charges,
18 but it related to the Gambino crime family. I think
19 that is going to have some, I think, persuasive
20 authority here because one of the things I'm going to be
21 demonstrating are not only rosters and lists of
22 nationwide, sort of, Outlaws, and you're going to see
23 some videos of nationwide Outlaws coming to a meeting
24 here in Buffalo that Mr. Barnes and Mr. Ermin was here
25 and people from Louisville and all over the country. It

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2 looks like a leadership meeting was held here in 2023.
3 And I'll note that in a case that I think Mr. Erwin has
4 an interest in, a defendant was indicted in January of
5 that year. I can only proffer that timeline. I don't
6 know what was discussed in the four-hour closed-door
7 meeting, but I think from the video I'll show later in
8 the presentation, it was seemed like a hastily
9 thrown-together meeting. They all meet at the Hilton
10 Inn across from the Buffalo Airport. It was a four-hour
11 meeting and they all disperse. So I think that timeline
12 is important.

13 THE COURT: Are you doing to address the
14 Jencks material or just cryptically refer to that?

15 MR. TRIPI: I'm going to address the
16 timeline of events in terms of disclosure of Jencks. We
17 didn't find any Jencks material from that case in any of
18 the searches.

19 THE COURT: What case are you talking about?

20 MR. TRIPI: I'm talking about 19CR227, the
21 *U.S. v. Bongiovanni* and *Gerace* case. So let me begin at
22 the beginning, though, if I may.

23 THE COURT: Okay.

24 MR. TRIPI: What brings this defendant to
25 court is obviously a firearm charge, but this Court

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2 knows it could consider much beyond the four corners of
3 that document. And that is where I think starting with
4 Mr. Ermin's leadership position in this enterprise is
5 important.

6 If I can get the exhibits displayed.

7 I would just like to show the Court Exhibit
8 8-A.

9 THE COURT: Let me make sure my -- yes, it's
10 working.

11 MR. TRIPI: So this is a law enforcement
12 material provided to me regarding the Outlaws nationwide
13 organizational structure. Now I know your Honor, you're
14 familiar with a motorcycle gang that sort of wanted to
15 be and was moving towards wanting to be a one percent
16 gang, but the Outlaws motorcycle gang has been in
17 existence for a very long time nationwide. It's an
18 international organization, you heard that yesterday.
19 This is the national structure. You have a national
20 president at the top. And that is John Ermin, who lives
21 in Lancaster, New York.

22 THE COURT: Where did you get this
23 organizational structure from?

24 MR. TRIPI: This was provided by law
25 enforcement who investigate the Outlaws. So just as

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2 sort of the Executive Branch of government have
3 officially terrorist organizations and the president has
4 a designate certain terrorist organizations, the
5 Department of Justice has designated, essentially, the
6 Outlaws as a criminal enterprise. And there have been
7 several racketeering cases throughout its history. A
8 little bit of history I think is important just to show
9 you how this is far different from the Kingsmen in one
10 respect. The Kingsmen are a JV organization compared to
11 the Outlaws in terms of reach, number of members, scope,
12 complexity. All right? So I'm showing you this so you
13 can see that the national president, who sits before
14 you, yes, on a gun charge where he had 16 firearms,
15 literally commands legions of people dedicated to the
16 one percent criminal lifestyle. And that one percenter
17 criminal life style is important. The most violent
18 Kingsmen, the most highest level Kingsmen, is your
19 baseline Outlaw. That is the assessment from law
20 enforcement for a long period of time.

21 THE COURT: And isn't it correct that it's
22 been known to law enforcement that Mr. Ermin is
23 allegedly the president of this organization?

24 MR. TRIPI: Yeah.

25 THE COURT: For years, right?

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2 MR. TRIPI: I think he became president, he
3 was locally a leader in Buffalo, and then he ascended to
4 what has been assessed by the FBI to the regional
5 president, which you could see is in blue. So during
6 the time frame that you were having the Kingsmen case
7 and you heard Mr. Ermin's name during the course of that
8 trial, we assess, I say "we," I'm speaking for law
9 enforcement, that he was the blue region president at
10 the time. He has since moved up. The blue region
11 covers east Ohio, Pennsylvania and New York. And so in
12 2019, when a high-ranking Kingsmen named Ed Decay
13 defected to a Nickle City Nomad organization and caused
14 that ripple that you sat through a trial on, in 2015 in
15 Ohio, Mr. Decay and a guy named Joseph Matthews A/K/A
16 Lucky and this defendant were stopped in Ohio during a
17 road rage type of incident in 2015. The police were
18 called --

19 THE COURT: I should disclose as well,
20 because I read the transcript, I pulled Mr. Decay's PSR,
21 and I have the description of that arrest, but I think
22 in fairness Mr. Muscato has to receive it.

23 MR. TRIPI: I'm operating off memory, to the
24 extent what you have in front of you differs slightly --

25 THE COURT: I can read it into the record.

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2 Why don't I do that? Because it's the date of the
3 arrest is February 21, 2015, the charge was improper
4 handling of a firearm in a motor vehicle, felony;
5 possession of methamphetamine, misdemeanor; agency was
6 Columbus Police Department, Columbus, Ohio. There is no
7 disposition reported in Mr. Decay's Presentence
8 Investigation Report.

9 And the narrative is: According to a
10 Columbus, Ohio Police Department on February 21, 2015,
11 Columbus Ohio Police Gang Unit detective responded to a
12 call of a road rage incident at 8575 Lira Drive. Upon
13 arrival, detectives located a blue Chevy Trailblazer
14 bearing New York license plate number GMP 3312 parked at
15 the pumps. Upon arrival, detectives observed several
16 white males, one male in the driver's seat, one male in
17 the passenger seat, and two walked from the gas station
18 in the vehicle. Later identified as the defendant,
19 meaning Mr. Decay, John Ermin, Joseph Matthews and Eric
20 Richardson, all members of the Outlaws Motorcycle Club
21 in Buffalo, New York. The detectives call for back up
22 and approach the vehicle. One individual was observed
23 to have taken a pancake holster from his waistband and
24 drop it at his feet. Detectives gave verbal demands to
25 all of the occupants to show their hands. Detectives

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2 subsequently recovered possession of four grams of
3 methamphetamine, two assault weapons, Kel-Tech sub 2000,
4 a loaded Taurus 38 special, 10 loaded pistol magazines,
5 three knives, two sets of brass knuckles, two batons, 64
6 rounds of ammunition, and three Outlaws motorcycle club
7 vests. The defendants were arrested, processed and
8 released pending further investigation.

9 And then the PSR notes that it's noted in
10 August of 2018, additional information was requested
11 from the Columbus Police Department regarding this
12 investigation and prosecution and has yet to be
13 received.

14 MR. TRIPI: So I think I can speak to that
15 because circling back, recently I asked the
16 investigators now working this case to look back at that
17 and see what happened to that. And what they were told
18 was we sent that information to Buffalo to do a case.
19 Well, you know Special Agent Greg Mango, and you know
20 what he was doing. You know what I was doing during
21 that time frame. And, Judge, we wouldn't have had venue
22 over a firearm case and a meth possession case in Ohio.
23 So the case went nowhere, that is what I infer. But
24 what did happen, we do know what did happen is Ed Decay
25 became an Outlaw. From the police reports, I've read

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2 it, appears that Ed Decay, the day of, took
3 responsibility for Mr. Ermin, Mr. Matthews, for the
4 firearms in the vehicle. And then what happened is Mr.
5 Decay became a full-patch Outlaw.

6 Now, you know from the trial you sat over,
7 that initially the Kingsmen wanted to target Mr. Caruso
8 and Mr. Decay, but that quickly pivoted to just Mr.
9 Caruso. Mr. Decay, he was protected by this
10 organization. They weren't touching him. And yet, and
11 yet, your plea colloquy with Mr. Decay was found in the
12 Outlaws clubhouse. You didn't hear that yesterday.

13 THE COURT: I saw that in the transcript, it
14 was the publically filed.

15 MR. TRIPI: It was publically filed, but the
16 mind-set I'm going to speak to in a little bit is there
17 is also a letter from another, I infer, I read the
18 letter, I infer it's an Outlaw in prison who spoke to
19 Dave Pirk and spoke to other Kingsmen in prison about Ed
20 Decay and reported back to Mr. Ermin and gave an
21 assessment that he believes Mr. Decay is standing tall,
22 meaning not cooperating. So they were monitoring Mr.
23 Decay the whole time, pulling his plea agreement. Yeah,
24 they have a PACER account. We found reference to their
25 legal bills. The Outlaws MC have a PACER account. I'm

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2 still waiting for the subpoena return from PACER and see
3 what that looks like. Ran into a few issues with that.
4 We're working through that. They didn't want to comply
5 with the grand jury subpoenas.

6 THE COURT: Who was that directed to?

7 MR. TRIPI: It was direct to PACER. I've
8 had that response before and in very short order got the
9 information. I'm hitting roadblocks this time around.
10 I don't know if there was a court policy change in D C.
11 We, in fact, know that they have a PACER account. They
12 have Mr. Decay's paperwork. They have paperwork from
13 Outlaw cases all over the country. Jack Rosga, Harry
14 Taco Bowman, monitoring your local cases. So in the
15 Outlaws clubhouse was the plea colloquy and in the Mr.
16 Ermin's house of the actual plea agreement.

17 THE COURT: Again, the publically filed plea
18 agreement?

19 MR. TRIPI: Correct. But you have to view
20 that through the lens of the montra, which I'm going to
21 pull up exhibit 15-M. I think this is a new add, so you
22 may not have seen this yet, Judge, but I think this
23 exhibit pulled out of the Kingsmen clubhouse.

24 THE COURT: Kingsmen.

25 MR. TRIPI: Sorry, I'm all messed up,

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Outlaws Clubhouse. Really speaks to the mind-set of the baseline. "This is not a family club or social riding club. We are men who ride and take our club seriously. We have a strong brotherhood and take care of business when need be. But that is not all we are about. This club is our family and our life. We spend most of our time doing club functions and traveling around the world visiting our brothers in other clubs. We are the first to admit that we are not your social weekend yuppies. Never have been and never will be, either. Biking and brotherhood is the strength of our club. Your brother isn't always right, but he is always your brother. It's one for all and all for one. All members are your brothers and family. You will not steal your brother's possession, money, woman. God forgives, Outlaws don't. And that is a tattoo that Mr. Ermin has tattooed across his stomach GFRD. And that stands for the proposition that the Outlaws will retaliate to a threatening organization.

Think of it as a mission statement. If you don't think this way, then walk away because you are a citizen and don't belong with us. We are Outlaws, one percenters and members will follow the AOA way or get out, which means American Outlaws Association or only

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2 Arians apply. United we stand divided we fall. Forever
3 Outlaws, Outlaws forever.

4 So that is the mission statement. And in
5 1994, and we learned this from with our prosecution
6 team, in 1994, on U.S. domestic soil, the Outlaws were
7 responsible for the biggest domestic bombing in U.S.
8 history to that point of a Hell's Angels' clubhouse in
9 Chicago. A car bomb went off. It was the biggest
10 bombing before Oklahoma City. That is the organization
11 we are dealing with. You can't point to those types of
12 things with the Kingsmen motorcycle club. This is on a
13 different level.

14 I would like to show you exhibit 8-B because
15 this is just going to be a press release for Outlaws
16 National President sentenced to 20 years for
17 racketeering. This press release is in 2011. So this
18 would be Mr. Rosga is the national president. In
19 between him there was another person named "Hillbilly,"
20 who is now medically retired. Hillbilly is sick, I
21 believe he has cancer, and then Mr. Ermin.

22 THE COURT: You're telling me that, but, I
23 mean, and you can proffer, but I have to assess the
24 reliability of the proffer. So why should I conclude
25 that your statement that Mr. Ermin is the national

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2 president of the Outlaws is reliable?

3 MR. TRIPI: He admitted it to a witness,
4 first of all, that I've spoken to and reviewed the
5 reports. Secondly, he has national level rockers. I
6 can show you his vest, it's going to have his national
7 pin on it.

8 Let's go to the 20 series, Karen.

9 Think of it like military ranking, but
10 you're going to see it says "National" and gold pin on
11 the rocker received from the house. 20-C we'll go
12 through in sequence, 20-C, you'll see the reference
13 "B.B.T.," refers to the baseball bat team, that patch
14 signifies his high ranking in, and I get this from doing
15 this every day and investigate these types of
16 organizations, and I've spent a minute prosecuting biker
17 gangs, and so I'm familiar with some of it as well.

18 On the top left, you see another patch that
19 says, "Brotherhood inside and out," which references in
20 or out of jail. And in speaking to Jeremy Sheetz, who
21 is with the ATF and has been a national expert for a
22 long time in this area, along with others that are
23 working this case who have devoted a lot of time working
24 Outlaws motorcycle cases, that red slash that is Arian
25 or that is related to the fact it's on his patch, it is

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2 significant in the sense it is indicative of violent
3 acts of his history. So B.B.T. patch, think of it as
4 prospective, your job was to defend the patch. The
5 lightning bolt Nazi symbolism which are red, according to
6 Mr. Sheetz, who reported to our agents, those types of
7 symbolism indicate when they are on the patch of
8 violence. On top of that, there have been reports, and
9 I reviewed one source, report of an individual who is in
10 an outlying clubhouse who watched Mr. Ermin beat someone
11 up.

12 THE COURT: Can you give me more
13 information?

14 MR. TRIPI: I really can't in this setting,
15 your Honor. I hope you understand why I'm a little
16 reluctant and maybe my proffer at the end will frame
17 that. I reviewed the report. The individual reported
18 that he was in the Outlaws clubhouse, that Mr. Ermin
19 walked out back, beat somebody up and then walked back
20 in.

21 THE COURT: You can't give me any kind of
22 time frame?

23 MR. TRIPI: I can follow up with the time
24 frame, Judge. I don't have that committed to memory as
25 I stand here right now. I was reading it more for the

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2 substance of what had happened, but I don't have a time
3 frame. It was certainly in the window of time when the
4 Kingsmen case was being prosecuted. So it was sometime
5 ago, but I don't have more specifics than that.

6 THE COURT: Okay.

7 MR. TRIPI: But I can get that for you.
8 There is also information that I've learned through
9 prosecution of the owner of Pharos Gentlemen's Club that
10 there is a witness who has explained that women who
11 would work there, now that case involves allegations of
12 sex trafficking, et cetera, women who are on the outs or
13 who are to be punished in some way get sent to the
14 Outlaws clubhouse to dance. There is a stripper pole in
15 there, they dance. There was information, and I'm not
16 saying the information came from the young lady that was
17 assaulted, I want to be clear, I don't want her to be
18 retaliated against. Information came to me that Mr.
19 Ermin slammed one young lady's face off of the bar
20 inside of the Outlaws clubhouse.

21 THE COURT: Can you give me more specifics
22 about that?

23 MR. TRIPI: I can't.

24 THE COURT: Was it an eye witness that
25 relayed this to you because I, again, I go to, Mr.

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2 Tripi, it's fine for the government to proceed by
3 proffer, there is nothing inappropriate about that, but
4 I have to make an assessment as to the reliability of
5 the evidence. And if one of the arguments the
6 government is making is that there is no condition that
7 can be put in place that would protect against the
8 danger that Mr. Ermin would present, then the
9 credibility of these purported acts of violence, it's a
10 relative factor.

11 MR. TRIPI: I think I understand what you're
12 saying. And there are a couple of ways I want to
13 respond directly to that. I think one way to assess the
14 reliability, I haven't gotten to 7-A, you start stacking
15 information on one another, does he have violent
16 tendencies, has he committed acts of violence? I think
17 the answer is yes based on my proffer. You overlay that
18 with a patch that I just proffered, which is indicative
19 of violence, and the B.B.T. patch, which is his role
20 defending the patches. Now, you add the person, without
21 being specific, and I'll be as specific as I can as to
22 the time frame, however, and I'll get to this, I'm going
23 to proffer information about the death of a current
24 federal witness that it's only come to light in the last
25 little bit that it's linked to another prosecution, but

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2 I now believe when I gave a more detailed proffer to a
3 federal judge about this type of nuanced information, it
4 resulted in the witness' death just this year. So I
5 apologize, but I'm hesitant to be more precise.

6 THE COURT: It's up to you, but, ultimately,
7 it's the government's burden, up to me, I'm going to
8 have to make an assessment.

9 MR. TRIPI: We embrace that, but overall, I
10 argue to you that by virtue, based on his position, and
11 a couple of things that I'm proffering, you're dealing
12 with one of the most dangerous and most powerful
13 individuals in the country.

14 THE COURT: I asked you about his role of
15 president of the Outlaws.

16 MR. TRIPI: And so this the first vest. And
17 thank you for getting me back on track, Judge.

18 20-D, Karen. Go to the next one.

19 That is the back of that same vest,
20 obviously it says "New York" on the back. Now, let's go
21 to 20-E. So they have different vests for different
22 seasons, different things they wear. Now we're going
23 into some lighter gear. 20-E, show the back, Karen. So
24 this one now says "United States," that was proffered
25 yesterday. Now you're starting to see he has a national

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2 role in the organization.

3 Go to the next one, G, here is another vest
4 of his. We're going to go to the next exhibit. Zoom in
5 on the patch area, Karen.

6 So you see it says "AOA," Outlaws -- now I'm
7 forgetting the moniker, the true one. But it says --

8 THE COURT: It's in your papers.

9 MR. TRIPI: It's the national pin. Only
10 Arians apply or American Association of Outlaws is what
11 they call it. That is the forward facing moniker, but
12 there is the national pin right on his vest in gold.

13 THE COURT: But does that signify being
14 president of the organization?

15 MR. TRIPI: I'm arguing to you and
16 submitting to you, based on all of this information to
17 include his own statements to a person, the national pin
18 on his vest, the United States bottom rocker, the
19 assessment of government experts who investigate these
20 things, that he is the national president. In the prior
21 proffer, there wasn't a disclaimer that he was the
22 national president. This is the boss, this is the guy.

23 They are a little more circumspect with some
24 of their president patches than some of the other clubs.
25 They are obviously more law enforcement conscious than

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2 some of the other clubs. There are exhibits that you
3 have, they literally circulate memos about roving and
4 court decisions to their membership under the title
5 "Must Read." That is found in their clubhouse. They
6 are a much more sophisticated organization, much more
7 law enforcement conscious.

8 One of the investigators that I have, two of
9 them have been investigating a long time, it's their
10 assessment he is the national president. I've put in
11 court papers back as far as 2021, he is the
12 international president. He has traveled to set up
13 chapters in Brazil. And traveled internationally all
14 over the country. And the other reason you know he is
15 the national president is the paper we pulled from his
16 house. I would like to go through that a little bit.
17 The A series. He has letters and people from other
18 parts of the country visiting him on video you're going
19 to see and writing to him.

20 So, can you just give me a moment, Judge? I
21 want to get to the right spot.

22 All right, Karen. If we could go to 1-H for
23 a moment. Here is another example, Judge, these letters
24 were taken from his residence in Route A behind the
25 couch. For example, he has a letter from membership in

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2 Australia.

3 Can you zoom in on that, Karen?

4 So he has a chapter writing him from
5 Australia. He has -- if you could Zoom back out --
6 other chapters from around the country sending him money
7 and there are some IT exhibits we've added. There is
8 about \$40,000 in cash seized from his residence.

9 THE COURT: That was from his residence.

10 MR. TRIPI: His residence. There was about
11 another 10,000, these are rough estimates, about another
12 10,000 in the clubhouse. He controls both of those
13 locations as the leader.

14 THE COURT: Because my notes from the
15 transcript are that it was \$40,000 from the clubhouse
16 and \$10,000 from the residence.

17 MR. TRIPI: I believe that if we said it, we
18 got it reversed. Let me just clarify that.

19 Agents are going to make a call who can
20 verify that. I'll correct it by the end. You'll see
21 the cash.

22 Ms. Champoux, can you show us the exhibit
23 where the cash is, please? I don't have it memorized.
24 We'll call that up.

25 19-F was some of the bulk cash seized from

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2 his residence. Stacks of hundred dollar bills. All
3 tolled the day of the search warrants, your Honor, there
4 were five locations searched, two Outlaws related, the
5 clubhouse and Mr. Ermin's residence, three the Rare
6 Breed related. The Rare Breed president and two of
7 their clubhouses. All tolled, there was approximately
8 \$50,000 seized, most of that was from the Outlaws side
9 of things, about 50 firearms, hundreds, if not
10 thousands, of rounds of ammunition.

11 THE COURT: Fifty thousand was seized, 40
12 and 10, it must have all been from the Outlaws, right?

13 MR. TRIPI: That was, at the time I was
14 proffering, that was the information I had. I think
15 more money has been counted, but I don't know exactly
16 how much more. There were about 50 firearms and 50,000
17 or more dollars. Some of the ammunition in one of the
18 Rare Breed was federal ammunition from a federal law
19 enforcement agency, that is now being investigated how
20 they acquired it.

21 THE COURT: That was seized from where?

22 MR. TRIPI: A camper related on the Rare
23 Breed's clubhouse in Wellsville, Mike Roncone's RV. He
24 is the president of the Wellsville chapter. He is
25 associated with Mr. Ermin and his father is associated

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2 with Mr. Ermin.

3 THE COURT: When you say associated with Mr.
4 Ermin, what do you mean?

5 MR. TRIPI: I'll get to it. The Rare Breed
6 and the -- the Rare Breed is a support club for the
7 Outlaws, to put it shortly. And he is a leader of the
8 Rare Breed. He had Homeland Security ammunition, which
9 so far we've tracked had been sold to the United States
10 Marshal Service.

11 THE COURT: Sold by the Marshal Service?

12 MR. TRIPI: Homeland Security sells it to
13 the United States Marshal Service, that is as far as
14 we've made it so far, but it should not be in the home.

15 THE COURT: Marshals should not be in the
16 business of selling --

17 MR. TRIPI: Right on the box it says "not
18 for resale," should not have been in a biker leader's
19 RV. That is going on a little side project upon all of
20 this.

21 But getting back to Mr. Ermin, in his house,
22 if you look at exhibit 1-M, and this was also in the
23 clubhouse, also in the residence he has lists of all of
24 the Outlaws who are incarcerated. I've opened it to the
25 page of Mr. Decay so you could see there. There is also

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2 a letter that I'm going to talk about, I think I've
3 referenced it, where somebody else is checking on Mr.
4 Decay to see if he stood up or is standing up, meaning
5 not cooperating. This goes in line with all their
6 "snitches are a dying breed," "God forgives, Outlaws
7 don't." That has real meaning in this context.

8 If you go to 1-N, your Honor, you can see
9 that Mr. Ermin is acquiring documentation from various
10 places. This is an individual -- Ms. Champoux, I'm
11 going to ask you to just Zoom in in just a moment. I
12 don't have a closer look of this one, Judge. This is an
13 individual, an Outlaws from Tennessee, who is writing.
14 Essentially he had pled guilty in a federal case and he
15 writes a letter, essentially, begging to get back into
16 the club saying that "I pled, but I essentially saved
17 five other Outlaws. I have three blood brothers in the
18 club." And this is the type of thing. All of this is
19 funneling its way to Mr. Ermin. He is looking at this,
20 and I don't have his cell phone, he is sending a text
21 message to another person or in the text message that he
22 received, it's a screenshot to Mr. Ermin's phone of
23 somebody who may be cooperating in Milwaukee and the
24 person texts a screenshot to him and the screenshot says
25 so and so is essentially a snitch, you should look into

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2 this.

3 THE COURT: Do you have a date for that?

4 MR. TRIPI: I can get it to you. I don't
5 have it with me today.

6 THE COURT: Do you have a date for the
7 letters from Tennessee?

8 MR. TRIPI: Only that they were seized at
9 his house. If you look at exhibit 10, there is a date
10 put on there, February 24, 2015. But these were seized
11 in his house, obviously.

12 THE COURT: I think it's supposed to be 10,
13 right?

14 MR. TRIPI: Ten, right. Another thing that
15 was seized from his residence, if you go to 1-P, very
16 concerning FBI law enforcement sensitive information.
17 Now this is not on the PACER docket. It's unclassified.
18 This should only be in law enforcement's hands. No
19 idea, as I stand here today, how he got this intel
20 between the Kingsmen and Pagans back in the 2015 time
21 period.

22 If you turn to page 1-Q, if we go to exhibit
23 1-Q, he has people sending them their psychoeducational
24 evaluations on the left, confidential. Now I understand
25 you might say on the write of that screen we have a

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2 court transcript, again, when you overlay all of this
3 monitoring with the mind-set of "God forgives, Outlaws
4 don't" and "snitches are a dying breed," it creates more
5 than a picture, particularly when you consider his rank
6 in the organization.

7 1-R is, you're going to see Mr. Decay's plea
8 agreement. And if you go through like 1-S, if you look
9 in the plea agreement, I don't think I took a picture of
10 every page, because you sat through the plea and you
11 know what it's all about, but there is highlighting and
12 tracking and things that show they are trying to assess
13 whether Mr. Decay is a cooperator. That is clear from
14 the letter from the person in jail to Mr. Ermin.

15 If we go to 1-U, there is a Jamestown Police
16 Department report with highlighting. As I stand here, I
17 have no idea how he got that. And you know from your
18 own personal experience, Mr. Ermin's name was mentioned
19 in connection with the Kingsmen trial. In fact, Keith
20 Elsaesser, who was here yesterday, when the FBI
21 approached him back in 2018, he wouldn't show them his
22 notes. He pretended that he wrote for the "Aging
23 Rebel," that is all bunk. We totally expected to find
24 the notes in the searches, but we didn't find them.

25 We found confidential reports going back in

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2 1990 to a RICO case in Virginia in 2010 that has marks
3 on it. I have an intel analyst looking to find out were
4 any of them tampered with, were any of them killed. As
5 I am standing here, I don't know, but they are hording
6 the stuff and tracking. That was the Rosga witness
7 list, the former national president.

8 THE COURT: Where was that found?

9 MR. TRIPI: That was found in the Outlaws
10 clubhouse. If you look at 1-X, 1-X appears to be a
11 transcript of a Title 3 or some type of wire intercept
12 transcript. And it's not an intercept, from my reading
13 of it, it says "16 mass 2017" at the top. So I don't
14 know what court case this is, I don't know where it came
15 from, but it's in Mr. Ermin's residence and he is
16 tracking what they are saying about him on this wiretap.
17 That appears to me, from my experience doing wiretaps,
18 that this looks like a transcript of some type of
19 intercept, whether a consensual recording or Title 3 or
20 some type of state wire. He is highlighting pages where
21 they are referencing him, "yeah, oh, yeah, just so you
22 know, I had Tommy O from the Outlaws on the phone"
23 highlighted. And, again, that is a multi-page document.
24 I reviewed it. There are other highlighted portions of
25 it. I took a picture of the front page because this is

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2 not a three-month trial. And I'm trying to give you the
3 flavor of what was in there.

4 1-Y I think will interest you. This was
5 recovered. This is the letter I was referencing. Can
6 we zoom in on the letter portion?

7 So it's addressed to Mr. Ermin, and this
8 person Tony D, who I believe to be Anthony Dloniak,
9 says, "Tommy One Percenter ended up in Elkton, Ohio at a
10 low." I think that refers to a low security prison.
11 "The place is 70 percent sex offenders. Ed was pretty
12 messed up when I got to CCA." That is a reference to Ed
13 Decay A/K/A "Special Ed."

14 THE COURT: Do you know what CCA is.

15 MR. TRIPI: I believe Ohio is a CCA in terms
16 of federal, like a federal jail. I don't think it's a
17 final prison yet. I can research that more.

18 "Ed was pretty messed up when I got to CCA.
19 I cleaned him up. His co Ds all checked in when we
20 arrived." So when you get to a new prison, you have to
21 show your paperwork to other prisoners to stay on the
22 yard or you have to check in because they will beat you
23 up. You get a certain amount of time to show your
24 paperwork to prove you didn't snitch. That is the
25 reference there.

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2 His co Ds," meaning Ed Decay's other
3 co-defendants, "checked in when we arrived. Flip,
4 Gregory Wilson, claimed Ed told, but did not produce his
5 paperwork to show me. In other words, Gregory Wilson
6 didn't have Ed Decay's paperwork to prove that Ed had
7 snitched. Sorry it's a little convoluted. I'm trying
8 to decode it here. Pirk was in Niagara County and he
9 said that Ed proffered. But without cooperating,
10 question mark. LOL. He also told me that you told him
11 he could patch over whenever he wanted, so apparently
12 Pirk has been offered to patch over to the Outlaws
13 because he rode it out and went to trial and didn't ever
14 tell the full story about all how all those events
15 played out. What I just told you was Ed was protected
16 based on my assessment and law enforcement's assessment
17 as to why Filip Caruso was the target. In any event, Ed
18 is good in my opinion. I can't speak on what I don't
19 know, but I felt he is standing tall. He is concerned
20 about his wife, but he will have to let that ride. Yes,
21 he was concerned about his wife. Time don't stand still
22 for people who are free. Let me give you my info, and
23 elicits it for us. Have someone --

24 THE COURT: That is who wrote this?

25 MR. TRIPI: Anthony Dloniak.

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2 THE COURT: He was a defendant in front of
3 me -- Mr. Cullinane.

4 MR. TRIPI: Now the name rings a bell.

5 Well, that makes sense. He was in Niagara
6 County jail with Pirk. Interesting.

7 THE COURT: Yeah, he was represented by a
8 guy from Chicago.

9 MR. TRIPI: Even more interesting. That is
10 the home of the Outlaws. They were founded in Chicago,
11 Illinois.

12 Someone send me an e-mail address for true
13 liens, I don't know what that means, and maybe phone
14 number, my legal shit over. My paperwork is 100
15 percent. Left Ed with my PSI to send you. I'm not sure
16 what my future holds, but I know my family is you.

17 THE COURT: His wife was prosecuted for
18 something too, Mr. Dloniak, but not to Federal Court.

19 MR. TRIPI: It sounds like Mr. Dloniak,
20 maybe he was never confirmed. It sounds like he may be
21 an associate or member because he ends up saying, "send
22 my love to the guys." He also leaves --

23 THE COURT: There was something, I'm just
24 going on memory, there was something that came up about
25 Mr. Decay in connection with that prosecution, but I

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2 don't recall what it was.

3 MR. TRIPI: I'm going to look into that.

4 But he leaves his PSI with Decay so Decay
5 can send it, probably to Ermin. This is the way -- this
6 is their system of checks and balances. So that is the
7 letter.

8 THE COURT: This was recovered in the search
9 warrant at Mr. Ermin's house.

10 MR. TRIPI: See that Post-it note there,
11 this photo was taken in the FBI, I've looked at it, and
12 I've asked them to photograph it for this purpose today
13 and put a Post-it note next to the letter to show where
14 it came from.

15 Same thing with 1-Z. I pulled this to show
16 you that they had a confidential memorandum from U.S.
17 Probation in 2010. I don't know the significance of the
18 case yet, but, again, their ability to acquire things
19 that are in FBI custody or law enforcement custody, now
20 Mark Lesser was an Outlaw who was prosecuted in
21 Tennessee, may have sent his own probation report to the
22 Outlaws, to Mr. Ermin, but that is their way of trying
23 to prove they are not betraying the brotherhood or, in
24 Mr. Lesser's case, to try and get back in the good
25 graces.

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2 If you look at 1-AA, I just had to take a
3 picture of this to show you that the former national
4 president is mailing Mr. Ermin directly at his
5 residence. This is this succession plan. This is the
6 sequence of national leadership. Mr. Rosga,
7 Hillbilly -- Hillbilly, in the meantime, I say Hillbilly
8 took a medical leave. I didn't think it was pertinent
9 to show you that letter. In the letter he was
10 referencing taking medical retirement, Hillbilly was in
11 Florida.

12 THE COURT: When does the government believe
13 that Mr. Ermin became national president.

14 MR. TRIPI: Sometime after Taco Bowman died
15 in 2019, he went to that funeral, it was attended by
16 very many, so some point after 2019.

17 I'm skipping over some other exhibits that
18 you've seen already and that you've looked at. Another
19 one I want to clue you in, again, this is all still in
20 his residence. If you look at 1-AE, 1-AE, these are ATF
21 confidential source reports regarding the shooting, the
22 James "Jimbo" Costa shooting, and if you go to 1-AF,
23 this is an ATF CI report, and you see someone wrote on
24 top, this is Phelps number, so they are assessing who
25 are the cooperators, and this is in Mr. Ermin's area of

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2 his house, a lot of his papers were by his desk.

3 1-AG, again, shows tracking. This is a
4 media report, but if we hone in on what was highlighted,
5 it was already highlighted when recovered, tracking what
6 sources are saying in various outlets.

7 1-AH, tracking what was seized from another
8 Outlaws' house, highlighting things that seem important
9 to them. This references that a piece of mail addressed
10 to Paul Raslawski at Pharaoh's. Mr. Ermin is the
11 manager of Pharos Gentlemen's Club. That is the
12 location that sex trafficking --

13 THE COURT: This Paul -- I don't even know
14 how to pronounce it.

15 COURT REPORTER: Can somebody spell it?

16 MR. TRIPI: R-a-s-l-a-w-s-k-i.

17 THE COURT: And who is he?

18 MR. TRIPI: He is a one percenter Outlaws
19 member. Previously was part of their support clubs
20 known as the Black Pistons. He is also a cook at Pharos
21 Gentlemen's Club. In 2021, law enforcement executed a
22 search warrant at his residence at 19 Grotton.

23 THE COURT: And that is what came up
24 yesterday.

25 MR. TRIPI: In or about March of 2021.

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2 THE COURT: Where Mr. Barnes' attorney
3 indicated that Mr. Barnes used to live there.

4 MR. TRIPI: Yeah. In fact, the agent who is
5 back in the front row of the courtroom, observed Mr.
6 Barnes there cutting the lawn one day.

7 THE COURT: Well, let's not get into Mr.
8 Barnes without him being present, but I just want to
9 make sure I'm following.

10 Paul Raslawski.

11 MR. TRIPI: No. So he had a number of
12 firearms seized from his residence.

13 THE COURT: In March of 2021.

14 MR. TRIPI: Yes, March 1st, 2021, which is
15 on the top there. He is also a cook at Pharos and there
16 is multiple witnesses who have reported he is involved
17 in distribution of various drugs.

18 Now, the two searches of his residence have
19 come up largely empty in terms of drugs, but they
20 recovered firearms.

21 THE COURT: Is he charged federally?

22 MR. TRIPI: He is charged in a pending
23 Criminal Complaint at the Magistrate.

24 THE COURT: With?

25 MR. TRIPI: User in possession of firearms

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2 at this point.

3 THE COURT: But not related to this March
4 2021 search?

5 MR. TRIPI: No, that search happened, that
6 was right around the time that Mr. Gerace had been
7 indicted. That search happened, dealing with some Covid
8 issues as well, and then the AUSA who handled that left
9 and new investigators started reinvestigating Mr.
10 Raslawski, that is why you had the delay. And the last
11 couple of weeks there was another search at a house, the
12 same house, and a cabin, and more firearms were
13 recovered from the cabin. And that is where that case
14 stands.

15 If you look at 1-AK, you can see Mr. Ermin
16 tracking filings that I wrote in that related case,
17 19CR227, but I think that is a good point to step back
18 and talk about the death of a federal witness. So I've
19 proffered to you the things that are being tracked,
20 different things from around the country, different
21 things as it related to that case. Mr. Ermin now knows
22 by execution of the search warrants and attachment B,
23 that some of the things that law enforcement was
24 authorized to search for included evidence of
25 racketeering activity, evidence of the relationship

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2 between the Outlaws and the Rare Breed, and evidence
3 relating to Crystal Quinn who was a federal witness.
4 Let me tell that story for a moment.

5 Okay. Crystal Quinn was somebody who was
6 approached by the FBI in or about January of 2023. She
7 was later charged by Criminal Complaint. She made some
8 false statements to them and she had been involved
9 sending a Facebook threat to a witness who was going to
10 testify in case No. 19CR227. Quinn was charged by
11 Criminal Complaint. Then, with her attorney, she
12 ultimately proffered several times and she provided
13 information about Peter Gerace, Joseph Bongiovanni and
14 members of the Outlaws. She expressed to several FBI
15 agents in that proffer and this Assistant United States
16 Attorneys that she was fearful of the Outlaws and that
17 they would kill her, her mom and her dogs. She
18 nevertheless pressed forward and she signed a
19 cooperation agreement and she was given pretrial
20 diversion. She was a bit of a drug user, but not a bad
21 person. And Lillian Cullen with United States Probation
22 was monitoring her. And everything was going fine.
23 Then after she testified in grand jury, Mr. Gerace was
24 charged with witness tampering and we had a detention
25 hearing, much like this, because he had been out, and I

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was answering a lot of questions similar to these types of questions, and I was doing the best that I can to, maybe, to give more information than I've given you, but it became clear to anyone that was watching that she was cooperating. And then we went back to doing what we do in Federal Court and she went back to her life and rats had been starting to show up at her house once, then another. She reports it to the FBI. FBI put a camera in her house, things like that. We continue to prepare for the trial, things happen, the trial doesn't go off on time.

Now Mr. Gerace gets detained March 27th, 2023, and we know that he was furious about it. And I don't want to be more specific as to how we know that because he is not the one who is sitting here in a detention hearing. But on good authority, he was complaining about Crystal Quinn, not by name, but by scenario. And he said that he had long reach and people who could tie up his loose ends. Okay. Fast forward and that is where that stood for a while. We learned that information, I want to say, sometime around July, but in a nice -- it was in its own bucket, Gerace said that in his case. And then separately, you know, Crystal, she was smoking some weed and giving Lillian,

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2 she was being responsive, but smoking weed, violated the
3 pretrial diversion agreement, so I told her attorney,
4 bring her in, she is just going to give her a pep talk,
5 can't smoke weed, not part of the agreement. Somewhere
6 in there, a guy named Simon Gogolack, who had gone to
7 high school with her, popped back into her life out of
8 nowhere. Hadn't seen her in 10 years, bumped into her
9 in a bar. He spent the next week -- now he is from
10 Wellsville, no apparent connection to Gerace, no
11 apparent connection to Ermin, but he went to high school
12 -- I know, I now know he went to high school with Quinn
13 and they were friends when they were 18 years old and
14 they got in trouble together in that time frame. He,
15 now from a review of his text messages, it's clear he
16 was trying to get her to go to Wellsville. But very
17 quickly, she was texting with him as though, now, as I
18 stand here now, I've seen her phone and people have seen
19 his phone. That took months to put together, weeks, if
20 not months. She is very quickly becoming in love or
21 very lovingly referencing him. He is luring her to
22 Wellsville.

23 On a different text thread in the middle of
24 July, Simon Gogolack is texting offering hit man
25 services, quoting lines out of the "Irishman" telling

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2 how he'll clean houses and park cars. There is a line
3 out of the movie the Irishman, you can YouTube it, I
4 don't have it for you today, where I think it talks
5 about you paint houses. And he butchers the line. But
6 somewhere in mid July, Simon Gogolack is offering hit
7 man services in another context. So very much --

8 THE COURT: To another --

9 MR. TRIPI: To another drug dealer.

10 THE COURT: Unrelated to this?

11 MR. TRIPI: Totally unrelated, someone he
12 gets drugs from in the world.

13 THE COURT: He is just saying, hey, I want
14 to become a hit man?

15 MR. TRIPI: He is saying, "I would like to
16 get that small business started that I talked to you
17 about."

18 THE COURT: Okay.

19 MR. TRIPI: And referencing being a hit man,
20 while he is trying to lure Crystal Quinn to Wellsville.
21 Of course, this took months and months to put together;
22 thirty search warrants, the Cloud at Google, you name
23 it, working around the clock. So then they end up there
24 while trying to prepare for trial, they end up in
25 Wellsville.

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2 THE COURT: They being?

3 MR. TRIPI: Quinn and -- Quinn and Gogolack,
4 he succeeds. He convinces her to go to Wellsville,
5 which I don't know anybody in the word that goes to
6 Wellsville for vacation.

7 THE COURT: It used to be a very wealthy
8 area, that is why it's called Wellsville.

9 MR. TRIPI: Really?

10 THE COURT: It was a nice area.

11 MR. TRIPI: She goes there. Still nothing
12 on the surface of that links to any of this. And they
13 spend -- she brings him right to a poker game. Now he
14 was saying, I don't have a ride there, they take her
15 car, her mom's car.

16 THE COURT: A poker game in Wellsville.

17 MR. TRIPI: Yeah, he is telling her, I need
18 a ride, help me get back to Wellsville. These aren't
19 verbatim. I need to get my I.D. and do something with
20 the taxes. Finally she convinces her mother to loan the
21 car and drives her mom's car to Wellsville. And they go
22 right to a poker game with a whole bunch of dudes and
23 she is the only woman that I could see from the video.
24 Gogolack links up with another guy named Howard Hinkle.
25 And there are text messages where he is now with Crystal

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2 indicating to Hinkle he is going to come to the poker
3 game, so they go there. And then Crystal is standing
4 all alone while Gogolack and Hinkle walk off, and I
5 think there is a strong inference as to what they were
6 talking about there. I'm going to leave that there for
7 now, that is for another day. And then they pal around
8 through the course of the rest of the night, Gogolack
9 and Hinkle. They bring Crystal places and ultimately
10 back to Gogolack house.

11 THE COURT: They being Hinkle and Gogolack?

12 MR. TRIPI: Correct, correct. And this is
13 where we get into some sensitive techniques and warrants
14 that we've conducted, but what it ultimately transpires,
15 I think between the hours of 3:30 a.m. and 6 a.m. on
16 July 28th, Crystal, instead of calling 911, is texting a
17 friend at an old number in her phone. You know how you
18 get a new phone and maybe somebody has a new number and
19 you store both numbers and you don't, if you're too lazy
20 to delete the old one, you may be calling the old one.
21 And she is texting this friend at a number that is no
22 longer this friend's number: "Simon is setting me up
23 with the bikers. 10 beams on me," meaning scopes,
24 pointed on her, scopes with firearms on repeat. She is
25 -- she is in terrible fear, terrible. Then nothing

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happens. That night. Her phone, I spoke with a computer scientist at the FBI who has looked at her phone, and it looks like sometime around, ballpark, 6:30 p.m. on July 31st, about a day and a half after those events where she is texting in utter fear, her phone stops being utilized by a human. So there is stuff happening on the phone, but it's just not natural action of a human being operating the phone. About a 24-hour period later, Simon calls in her body, but only because certain other events forced his hand. Crystal's mom was looking for her and looking for her car and was going to call the state police because she hadn't heard from her daughter. And that is what triggered him to call in the body. It had been stiff for upwards of 24-hours or more, full rigor. She had been dead for a long time. Of course we don't know any of this and it looked like, to the first responders, like a normal overdose accident. We weren't even notified right away. We had to figure out where she ended up. How she ended up there. By the time we were fully onto it, her body had been cremated and already been done. But there was an autopsy done where the results wouldn't come back for over a month later, sometime in September, and then it became real. She had enough Fentanyl in her system,

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2 somebody who didn't use Fentanyl, ever, and was against
3 it, had friends die of it, used cocaine and other things
4 like that.

5 THE COURT: Well, you say used Fentanyl,
6 Fentanyl is in a lot of drugs.

7 MR. TRIPI: It is in a lot of drugs, but
8 this was enough cocaine to, or, sorry, Fentanyl to kill
9 everyone in the courthouse, so nobody accidentally
10 overdoses with that much. She had 1200 nanograms in
11 her. A low end overdose is three. So, she had instant
12 death, not party amount. The scene was cleaned. That
13 appeared clear.

14 THE COURT: Were there any drugs on the
15 premises?

16 MR. TRIPI: Very little. Hash, what I
17 presume is hash, hasn't been fully tested yet. I don't
18 know if they test for hash anymore, honestly. It wasn't
19 handled like a full-blown crime scene by the police, it
20 looked like an accident. About a week later, that is
21 when the FBI went down there and did a search warrant
22 and ultimately charged Gogolack with guns and drugs.
23 Right. And then it progressed from there over time and
24 Gogolack links to Hinkle and Hinkle links to the Rare
25 Breed and Rare Breed links to the Outlaws.

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2 THE COURT: When you say Hinkle links to
3 Rare Breed, where is that from?

4 MR. TRIPI: There has been surveillances and
5 there has been reporting, video surveillance, video
6 footage, and a warrant on his phone where he is with
7 Rare Breed members, Hinkle is with Rare Breed members.
8 And there is an obituary post when Hinkle's father died,
9 Rare Breed posted on his phone and he is communicating
10 with Mike Roncone about certain things.

11 THE COURT: Hinkle is?

12 MR. TRIPI: Hinkle is.

13 THE COURT: And then you look at the Rare
14 Breed meeting minutes, you know how the Kingsmen kept
15 meeting minutes? Well, so, for the Rare Breed and
16 Hinkle was removing scrap from their clubhouse, things
17 like that. And so Hinkle, Gogolack and of course the
18 night that there was a lot of the fear, they were
19 together the night that a lot of the fear that Crystal
20 started kicking up. That was the sequence of events
21 that led us to this. It wasn't much right from the
22 beginning where we now know that Mr. Ermin has some
23 nexus to the Rare Breed. I told you they are a support
24 club. We go back and look and we go back and look who
25 visited Mr. Gerace after Crystal's complaint was

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2 dismissed from PACER. An organization that has a PACER
3 account, I don't have the records to say they pulled
4 that one yet, but we know from other information, that
5 Mr. Gerace was provided a copy of Crystal's Criminal
6 Complaint, that got dismissed.

7 THE COURT: Say that again.

8 MR. TRIPI: There is information that an
9 individual, an investigator, provided Mr. Gerace with
10 Crystal's Criminal Complaint.

11 THE COURT: That was filed in Federal Court.

12 MR. TRIPI: Yep, and so that then that
13 complaint, when she enters the pretrial diversion and
14 cooperation, gets dismissed.

15 THE COURT: And the complaint is publically
16 filed.

17 MR. TRIPI: Publically filed.

18 THE COURT: So then the dismissal of the
19 complaint is publically file, dismissed with no
20 disposition, which would lead a reasonable person to
21 conclude there some type of --

22 MR. TRIPI: Yes. You know who the next
23 person who visited Mr. Gerace was after that?

24 THE COURT: After what?

25 MR. TRIPI: The dismissal of the complaint.

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2 THE COURT: Okay.

3 MR. TRIPI: John Ermin on April 4th. Eight
4 days later he has made two visits.

5 THE COURT: Two visits total since Mr.
6 Gerace has been in custody?

7 MR. TRIPI: Yes. One was after Ms. Quinn's
8 complaint got dismissed and one was in July, July 6th,
9 those two, that's it.

10 THE COURT: When did Ms. Quinn die?

11 MR. TRIPI: August 1st she died -- withdraw
12 that. It would seem she may have died July 31st, given
13 the full rigor she was in. Her body was called in
14 August 1st. We didn't become aware because she was
15 supposed to meet with the government on August 1st, her
16 attorney called U.S. Attorney's Office asking "is she
17 there," she wasn't there. The attorney couldn't get
18 ahold of her. Lillian Cullen couldn't get ahold of her
19 and said this is not like her. August 2nd, the attorney
20 calls the U.S. Attorney's Office and says, "She is dead.
21 I don't know where yet." It want from there. The
22 attorney knew first.

23 And so FBI is not out to Wellsville until
24 August 3rd by the time they figure out where any of this
25 happened. Her autopsy is done, no law enforcement

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2 attended the autopsy. And arrangements are already
3 being made to cremate the body. August 8th is when they
4 are out there doing search warrants at Gogolack's, and
5 that sequence of events plays its way back. And now we
6 look back and say, standing here today, that she
7 cooperated, she flipped, she testified in grand jury,
8 Gerace got detained, Gerace got mad, Gerace made
9 statements that he could have people killed and had long
10 reach. And the manager of his club is the national
11 president of the Outlaws who controls legions of people,
12 who has support clubs and puppet clubs under him, which
13 include the Rare Breed. And then someone who wants to
14 be a hit man and hangs out to the Rare Breed in
15 Wellsville, injects himself back into her life and lures
16 her in her life and she overdoses and it is staged to
17 look like a death.

18 THE COURT: And when you say it was some
19 drug dealer, that is someone different than Hinkle?

20 MR. TRIPI: Yes, there is a little bit of
21 inference that I'm drawing here. It would appear that
22 maybe he was buoyed by this is his new business, he was
23 beginning, he references starting a new small business.

24 THE COURT: So, in other words, you're
25 potentially, I mean, your argument, I guess, is that the

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2 whole purpose of him reestablishing this connection with
3 Ms. Quinn was to kill her.

4 MR. TRIPI: Either that or he reestablished
5 and opportunity arose. It could go either way.

6 THE COURT: But he was introduced into this
7 business of killing people through that and then you're
8 thinking he was branching out with this other drug
9 dealer.

10 MR. TRIPI: This other drug dealer was
11 within the same time frame. I don't know. The other
12 drug dealer's text messages were close enough in time
13 that, as I stand here without having them in front of
14 me, I don't know which came first, but they were close
15 in sequence.

16 THE COURT: Can you give me the dates again
17 for when your proffer was in federal court that resulted
18 in Mr. Gerace being detained?

19 MR. TRIPI: The proffer occurred over two
20 days, March 24, I think that was a Friday, and March 27,
21 which I think was a Monday. And he was detained that
22 day. That is when the day he learned his final
23 detention status, I guess, was the 27th. And then
24 thereafter he made statements about --

25 THE COURT: So April 4th, you said, though,

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2 is when Mr. Ermin visits Mr. Gerace in jail.

3 MR. TRIPI: Within eight days.

4 THE COURT: Which is the first time because
5 he had just recently been detained.

6 MR. TRIPI: Correct.

7 THE COURT: And then the statements that
8 you're attributing to Mr. Gerace occurred occurs about
9 where it's -- the government believes there is proof
10 that Mr. Gerace knew Ms. Quinn was the one responsible.

11 MR. TRIPI: After he is detained, but before
12 Mr. Ermin visits him.

13 THE COURT: And then Mr. Gogolack reaches
14 out to Ms. Quinn, when was that?

15 MR. TRIPI: About the week before she died,
16 so in July. And July was the next month that Mr. Ermin
17 visits Gerace.

18 THE COURT: So Mr. Ermin visits Mr. Gerace
19 July 6th. And then Mr. Gogolack reaches out to Ms.
20 Quinn --

21 MR. TRIPI: I want to say about three weeks
22 later, week of July 22nd, 23rd, somewhere in there.

23 THE COURT: Do you have anybody
24 establishing, anybody directing or enticing or
25 encouraging Mr. Gogolack to proactively reach out to Ms.

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2 Quinn? I know that is the Government's theory that he
3 did this to engage in this conduct, but do you have any
4 proof that somebody approached him about doing it?

5 MR. TRIPI: This would require a very
6 detailed proffer that I'm, in this setting, reluctant to
7 give due to ongoing investigation. But, also, it's very
8 circumstantial. I'll concede to that. It's a very
9 circumstantial, it's circumstantial, but we believe
10 strong circumstantial.

11 Search warrant affidavits in this matter
12 have been 169 pages, so it's very challenging for me to
13 give you more than I'm giving you now. And I'm exposing
14 a lot here, so that you have a full context here. This
15 is still going on. The grand jury just seized a whole
16 bunch of devices from Mr. Ermin's residence within a
17 week.

18 THE COURT: You don't have anything to
19 proffer with respect to those?

20 MR. TRIPI: No. We got the search warrant
21 signed Monday, so I'm not certain of things yet from
22 those devices. But it's clear that she was killed
23 because she was a witness and that the two people that
24 we now know had the biggest motive to silence her were
25 Gerace and Ermin, as the leader the Outlaws. And, in

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2 fact, she previewed it with us that she was scared they
3 would kill her.

4 THE COURT: Did she have evidence against
5 Mr. Ermin?

6 MR. TRIPI: She had been in that clubhouse
7 and overdosed from cocaine use in that clubhouse. She
8 had a -- she called it a seizure.

9 THE COURT: In the Outlaws clubhouse?

10 MR. TRIPI: Yes. She said she had a
11 seizure. If you look it up, a seizure is an overdose of
12 cocaine.

13 THE COURT: Did she identify Mr. Ermin as
14 being present?

15 MR. TRIPI: No, she went there with two
16 other people. If you're okay with it, two other
17 Outlaws, patched Outlaws. I would leave it at that for
18 now. I don't think their names particularly advance my
19 argument here.

20 THE COURT: Okay. Anything else where she
21 identified Mr. Ermin as engaged in criminal activity?

22 MR. TRIPI: I mean, he was identified as the
23 leader.

24 THE COURT: By her?

25 MR. TRIPI: I'm pretty sure, yeah. And she

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2 is not the one I was referencing earlier when I
3 referenced that. So I know there is a lot there. But
4 that is just one branch of the tree. There is a whole
5 organization here. I wanted to pull up, I wanted to
6 show you how this is playing out in a different context.
7 He is at the head.

8 Can you pull up the press release from May
9 23rd, 2023 that we marked today, Karen? I just don't
10 know what number it is since I had it just today.

11 There is a prosecution in another town where
12 two Outlaws were going to go to trial for a stabbing,
13 and now the witness has vanished, and the case got
14 dismissed. That happened in May.

15 THE COURT: Say that to me again. I'm
16 sorry, Mr. Tripi.

17 MR. TRIPI: So this is a case from Madison
18 County. I don't think we have the title here. And I
19 apologize, I think the title is "Charges dismissed in
20 motorcycle club stabbing after crucial witnesses goes
21 missing." Two Outlaws had stabbed somebody for wearing
22 unauthorized Outlaws gear. Murdered a person, I believe
23 it's a murder -- no, the person lived. I'm sorry. And
24 now that witness is missing. This is May of 2023. So I
25 wanted to point you to something that talks to the

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2 larger mission statement of "snitches are a dying
3 breed," "God forgives, Outlaws don't."

4 Now, Karen, if we could go to Mr. Ermin's
5 tattoos, there is a photograph of him inside Mr.
6 Gerace's backyard last Labor Day sitting next to Mr.
7 Barnes. And you can see on Mr. Ermin's left arm a
8 tattoo that says "B.B.T." on it, baseball bat team.

9 THE COURT: That is crooked.

10 MR. TRIPI: He has two things going on. He
11 is wearing a t-shirt that says "God forgives."

12 THE COURT: No offense, but who is who?

13 MR. TRIPI: The one holding the can is Mr.
14 Ermin.

15 THE COURT: Okay.

16 MR. TRIPI: And the other one who looks like
17 he is looking right at the camera is Mr. Barnes.

18 THE COURT: Okay.

19 MR. TRIPI: But that tattoo on his arm, I'm
20 told it says B.B.T. It's a little blurry but you can
21 see the t-shirt says "God forgives, Outlaws don't."
22 That is in line about the B.B.T patch, that was also on
23 his patch. And so then, Judge --

24 THE COURT: This is at a party at Mr.
25 Gerace's?

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2 MR. TRIPI: While he is on pretrial release.

3 THE COURT: About what time period?

4 MR. TRIPI: Labor Day of 2022, a Labor Day
5 party. I don't know if it was exactly on Labor Day.

6 And then another thing I wanted to point
7 out, I referenced it earlier, 1-AV is the exhibit where
8 it's posted in the Outlaws clubhouse, "Must read" or
9 it's in the Outlaws' clubhouse, I don't know if it was
10 still posted, "Must read" and it talks about FBI using
11 roving wiretaps against members of the Genovese family
12 and it continues through five pages and provides like
13 some legal analysis. And what the Judge ruled in that
14 case. Again, I would argue that is consciences of guilt
15 that they are a criminal organization.

16 If you look up on notes that we found in Mr.
17 Ermin's 2-A, he is writing, "nobody talks, everybody
18 walks," seems like an instruction where he is writing
19 not to talk if they are shot, stabbed, beat to cops or
20 to court. If they don't understand this, we don't need
21 them.

22 THE COURT: Where is this?

23 MR. TRIPI: Found within his desk area.

24 THE COURT: Like a loose piece of paper?

25 MR. TRIPI: He had a like a desk area some

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2 papers that were like on the side, it was in his
3 residence. Another page 2-B, he talks about what dry
4 snitches is, jail letters, phone visiting rooms, it's
5 dry snitching. It ties our hands. Lose phones, texts,
6 e-mail, social media, dry snitching, pillow talking,
7 discussing in front of citizens, cunts, dry snitching.
8 Exhibit 2-C --

9 THE COURT: This was found in Mr. Ermin's
10 house. Do you know for a fact this is his handwriting?

11 MR. TRIPI: I'm asking you to make that
12 inference. It's in his area, it doesn't look like
13 female writing to me. People have -- every woman I know
14 has nicer handwriting than me. That is all I'm saying.

15 THE COURT: In other words, your
16 understanding is that he lived at the home with his wife
17 and that's it. There wasn't another male in the home?

18 MR. TRIPI: Yeah, and she was -- she is his
19 wife, she wears the vest that says "property of" old
20 lady vest. This is both people are fully indoctrinated
21 into the lifestyle here. But this appeared to be his
22 area. Many of the devices had Arian-nation type
23 monikers on them, swastika-type things. I know you've
24 seen some of the photos pulled out of the clubhouse,
25 huge swastika. That is a very dangerous, and I

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2 understand it's First Amendment protected speech --

3 THE COURT: Judge Schroeder obviously made
4 the point that, hey, you know, it's not like you have to
5 endorse this, it's not -- it doesn't mean we lock up
6 everybody that thinks that.

7 MR. TRIPI: One hundred percent. But when
8 you look at the whole forest here, then that dangerous
9 ideology, it only takes an instant for an ideology to
10 become action. We learned that in the Tops case, so
11 there is a dangerous assessment there. Just by virtue
12 of that speech, sure, you can be a bigoted racist all
13 you want, but when it's something that you put on almost
14 everything you own and you put the flag on the wall and
15 in the Outlaws clubhouse, the place where you command
16 allegiance, you're telling everybody else under you,
17 this is how we operate, this is our belief system. And
18 then you hang a rat behind the bar from a noose, did you
19 see that picture?

20 THE COURT: Yeah.

21 MR. TRIPI: And, yeah, and then you wear
22 shirts with guns that say, "snitches are a dying breed,"
23 and then other places in the country prosecutors are
24 losing witnesses.

25 THE COURT: Wait, wait, wait, do you have

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2 proof of that?

3 MR. TRIPI: Well, I just, I'm referencing
4 the press release I just showed where Outlaws stabbed
5 somebody and now the witness is missing. And in the
6 case here, a woman spoke with the Outlaws and now she is
7 dead, you start stacking all of that up, there is not --
8 there is not a leap here. There is a strong inference
9 that should compel the Court.

10 But then he says it himself by wearing this
11 "Free Taco" shirt, Taco Bowman was a prior national
12 president in for RICO murder, operating a number of RICO
13 murders, and he continued to, and he is wearing a "Free
14 Taco" shirt. America's most wanted Outlaw, they treat
15 him like God. The person who is the most notorious
16 Outlaw in probably their recent history. That type of
17 commitment to a cause endangers everybody, not just
18 witnesses in federal cases, the communities.

19 Other bikers, you know, you're going to see
20 a video of henchmen, underlings of Mr. Ermin, to include
21 Mr. Barnes, going to a restaurant to confront with a
22 show of force an Outlaw who was wearing patches that he
23 wasn't supposed to be wearing. Maybe this a good time
24 to go to that.

25 THE COURT: Let me ask you a question. How

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2 much longer do you expect?

3 MR. TRIPI: I didn't realize.

4 THE COURT: How much longer do you think
5 your proffer is because I have questions for you as well
6 and we obviously haven't heard from the defendant.

7 MR. TRIPI: I would, let's play the videos,
8 if we could, and they are relatively short, and then I'd
9 be happy to respond to whatever questions you have, if
10 that works for the Court.

11 THE COURT: Okay.

12 MR. TRIPI: I'm happy to continue another
13 day if we need to as well.

14 THE COURT: Okay. Why don't we play the
15 videos?

16 MR. TRIPI: I believe exhibit 21. So this
17 exhibit is going to have two sets of videos, two folders
18 here. Halligan's is a bar, and if I could preview it
19 for you. This bar -- let me get the date of this
20 footage, if you don't mind, your Honor.

21 We'll have to open one maybe to see the
22 date, Judge.

23 THE COURT: Okay.

24 MR. TRIPI: This is Halligan's bar, I
25 believe, in Lockport, New York. Pause it, please, for

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2 the record. And I have no information that the date is
3 inaccurate. The date at the top of the video is
4 November 25, 2020.

5 THE COURT: This is in Lockport?

6 MR. TRIPI: This is a bar in Lockport, New
7 York. I don't think it's in existence anymore.

8 THE COURT: It went out of existence pretty
9 quickly.

10 MR. MUSCATO: What was the name of the bar?

11 THE COURT: Halligan's.

12 MR. MUSCATO: Halligan's?

13 THE COURT: That is what you said, right?

14 MR. TRIPI: That is what it was saved as.
15 November 25, 2022.

16 Footage was obtained by FBI task force
17 officer who is in court. And what you have here, just
18 to tee it up, there is a Kingsman who was wearing
19 unauthorized patches.

20 THE COURT: Kingsman or Outlaws?

21 MR. TRIPI: Kingsman. This Kingsman is
22 going to be confronted for wearing these patches. And
23 you're not going to be able to hear the audio that well,
24 but the -- you're going to see him being sat down at
25 sort of this bench to the right and surrounded by a

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2 whole bunch of Outlaws, one of whom has a cane, and
3 being given a talking to. And then you're going to see
4 other video angles of other Outlaws grabbing the phones
5 from a woman at the bar. You're going to see them pour
6 into the back, because, initially, this Kingsman goes
7 into the kitchen, almost to deescalate the situation,
8 and they go back in the kitchen and bring him out. That
9 includes Mr. Barnes and includes Mr. Elsaesser, who was
10 here yesterday watching in court, and a number of
11 others.

12 THE COURT: Is Mr. Ermin there?

13 MR. TRIPI: Mr. Ermin is not here, but this
14 is, again, it would apply to him, because these are
15 people he controls. He is a leader of everyone you're
16 going to see in this situation.

17 Then I'm going to play another video and
18 you're going to see Outlaws from all over the country
19 coming to meet with Mr. Ermin.

20 Can we play this angle?

21 (Video played.)

22 Fast forward it just a little bit.

23 You have now have Mr. Barnes in the front,
24 every other person pictured is an Outlaw at this point.
25 Another camera angle shows them all filing in, so one at

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2 a time, in a position around the bar. The area where
3 the Kingsman is off screen, off the bottom of the
4 screen, the direction where Mr. Barnes is, you see
5 activity at the bottom.

6 Now they are going in the kitchen area to
7 pull him out.

8 THE COURT: How do you know that?

9 MR. TRIPI: There are other angles that I
10 viewed that I'll show you.

11 Can you pause it real quick?

12 The guy with the goatee there, bald head,
13 his wife also works at Pharaoh's, his name is A/K/A
14 Spider, and he is -- he frequents Pharaoh's a lot, which
15 is the location where Mr. Ermin is the manager, Mr.
16 Gerace is the owner. Where you have Mr. Raslawski is a
17 cook who deals drugs. Where Matthew Joseph A/K/A Lucky,
18 so you have four Outlaws that are heavily invested in
19 that particular strip club owned by Mr. Gerace.

20 Please continue, Ms. Champoux.

21 So sitting down is -- if you stop it. That
22 is the Kingsman who just sat down to the right.

23 THE COURT: The guy with his back to the
24 wall?

25 MR. TRIPI: Yes. He was directed to sit

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2 down by Mr. Mariachio, who is in court watching here
3 today, who is either the Buffalo chapter president or he
4 may be the new blue regional president, I'm not quite
5 sure about that. But that would be under Mr. Ermin. He
6 got promoted recently, too.

7 So you saw him direct the Kingsman where to
8 sit. You're going to see everyone circle around and
9 Corey Benson holding a cane, although he walks just fine
10 without a cane, and he is the young one there in the
11 black with the hat, and they'll circle. At some point,
12 you'll hear the Kingsman, and he asks if the guy is
13 about to beat him with the cane. And we'll play the
14 tape from there.

15 (Video played.)

16 Stop it for a second. Off camera at the
17 bottom there is a guy with a bald head and glasses on
18 top, and he is the owner of the bar and trying to figure
19 out what is going on. Separately, the owner is
20 wondering why these guys are pulling out his cook to sit
21 him down like that.

22 Go back a little bit, Ms. Champoux.

23 Around the time where the Kingsman stands,
24 your Honor, is around the time he thinks he is going to
25 be beat with the cane. He stands up and puts his back

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2 against the wall. It's around there and hard to hear.

3 Right now he is telling the owner, "He has
4 got the message. It had nothing to do with you or the
5 bar."

6 Can you stop it there? I'm going to go to
7 another angle that shows them going into the kitchen and
8 then the gentleman pulling the phone off the bar.

9 MR. MUSCATO: Excuse me, your Honor. My
10 client has some health issues that require --

11 THE COURT: Hold on a second.

12 MR. MUSCATO: That requires him to use the
13 restroom. Could he please do that?

14 THE COURT: Yes, of course. We're almost at
15 5:15 at this point. I don't envision myself making a
16 decision on this today. I envision us having to either
17 continue, because I don't know if we're even going to
18 get to the defense being able to respond, so we can
19 either --

20 MR. TRIPI: Could I propose, just for
21 efficiency sake, if we can finish this one and Barnes
22 the same day. We could play these videos because they
23 apply to both Barnes is going to be --

24 THE COURT: So we adjourned Mr. Barnes to
25 next week on Wednesday at 11 o'clock.

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2 MR. MUSCATO: Okay.

3 THE COURT: And I do, I mean, quite frankly,
4 I'm not -- I don't want to say I'm concerned about it,
5 but there is facts coming up in each of these proffers
6 that kind of apply to the other one, and I think when it
7 was originally heard in front of Judge Schroeder --

8 MR. TRIPI: They were together.

9 THE COURT: Well, they were at least --

10 MR. TRIPI: For the initial one.

11 THE COURT: Were they both in the courtroom
12 at the same time? Was Mr. Ermin present for Mr. Barnes
13 and vice versa?

14 MR. TRIPI: No, what had happened, the
15 attorney for Mr. Barnes had watched everything, so he
16 had seen the fuller presentation, but Mr. Barnes had not
17 seen it, but there was a discussion on the record and
18 the attorney consented to everything that had been
19 seized for Ermin applying so we didn't have to repeat
20 the same information.

21 THE COURT: I get it you would like Judge
22 Schroeder's decision to stick and call it a day. That
23 may end up happening, but I'm not prepared to decide
24 that right now. So we're going to have to continue
25 this. I would propose that we continue it next

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2 Wednesday at 11 a.m. and we're scheduled to continue
3 with Mr. Barnes, but if you want it sooner than that,
4 I'm willing to consider that and try to figure out a
5 date. So if you want to talk to your client, that's
6 fine.

7 MR. TRIPI: I'm sorry for going so long,
8 there is a lot of information here.

9 THE COURT: Well, I have a number of
10 questions for you, too.

11 MR. MUSCATO: Judge, next Wednesday is fine.
12 My client just really wants to use the restroom.

13 THE COURT: Let's have Mr. Ermin go to the
14 bathroom and then we'll come back out here.

15 (Whereupon, there was a break in the
16 proceeding.)

17 So just for future reference, Mr. Ermin, if
18 you need a break at any time, please just even shout at
19 me or something. I don't want -- there is no reason you
20 have to be quiet about it. Okay?

21 MR. TRIPI: If you're ready, you want me to
22 keep going with the videos?

23 THE COURT: No. I guess my point is that I
24 think there is no way we're going to finish this today.

25 MR. TRIPI: No.

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2 THE COURT: We're going to have to pick an
3 adjourn date. We can finish up the videos, but your
4 point is you're going to have to redo all of this with
5 Mr. Barnes when we get back together. My proposal, we
6 adjourn this to Wednesday next week at 11 a.m., have
7 both defendants here. We'll go through the video
8 evidence and then we'll continue with anything they want
9 to present about Mr. Barnes and Mr. Ermin.

10 MR. TRIPI: Okay.

11 THE COURT: Fair enough. So I don't know if
12 you heard what I was proposing?

13 MR. MUSCATO: And I apologize to the Court
14 because I did hear what you were proposing, I was also,
15 my client is scheduled for a prostate surgery on Friday
16 and it has significantly impacted his life. I
17 understand he is in custody, I'm not trying to affect
18 that, but is there some way we could enter an order that
19 would allow him to get the surgery done on Friday,
20 remain in custody of the Marshals.

21 THE COURT: Well --

22 DEPUTY MARSHAL: If he is still in custody,
23 he has to go through our process, submit a prison
24 medical record. A procedure like that is going to take
25 a while to get approved. The only way is to furlough

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2 him for the time of the surgery and whatever recovery
3 and come back into custody.

4 MR. TRIPI: The government has concerns
5 about him being out, obviously, your Honor.

6 THE COURT: How long -- tell me about the
7 surgery. I mean, is it an overnight or is it an
8 ambulatory?

9 THE DEFENDANT: They take me in overnight
10 and remove part of the prostate. The next day I'm
11 released and three weeks bed rest because passing blood
12 for three weeks.

13 THE COURT: How long has the surgery been
14 scheduled for?

15 THE DEFENDANT: I think a couple weeks ago.

16 MR. MUSCATO: Judge, I have a paperwork.
17 His wife did give it to me.

18 THE COURT: At this point, is probation's
19 position any different than it was in the bail report?

20 PROBATION: No. It's the same, your Honor.

21 THE COURT: Okay. I mean, we could pick
22 this up again tomorrow, we could pick it up again
23 Thursday and I could try to reach a decision before
24 Friday. I can't guarantee you what the decision is
25 going to be or I'm very reluctant, even if I could be

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2 convinced while this is pending to release you just for
3 purposes of the surgery. I'm reluctant to do that where
4 you're going to be on three weeks bed rest and
5 potentially have to go back into custody. That doesn't
6 sound like a good viable option.

7 THE DEFENDANT: May I?

8 THE COURT: Well, check with your attorney
9 before you speak.

10 MR. MUSCATO: Judge, he was indicating that
11 if the Court would allow home confinement without
12 association with anybody, that would be acceptable to
13 him. And I just simply don't know what I did with --

14 THE COURT: But I guess the point is, I'm
15 not in a position right now to rule on that. We're in
16 the middle of the government's proffer. The government
17 is taking the position that you should be detained. And
18 I don't know how I'm going to resolve this. I need to
19 finish hearing the government's proffer and then I need
20 to hear from defense counsel. And I have questions for
21 both of you about this.

22 MR. MUSCATO: Yes. And I can't seem to put
23 my finger on the paperwork that I have. But I found it.
24 It's from Western New York Urology Associates addressed
25 to John, and just basically says he is scheduled for

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2 urologic surgery on 12/22/23. Is that Saturday?

3 THE COURT: 12/22 is Friday.

4 MR. MUSCATO: Judge, we'll postpone the
5 surgery. I think that is where we're at at this point.

6 THE COURT: Okay. All right. So we're in
7 agreement that we will continue this on Wednesday?

8 MR. TRIPI: At 11.

9 THE COURT: Wednesday, December 27th, at 11
10 a.m here in Rochester.

11 MR. MUSCATO: Yes, your Honor.

12 MR. TRIPI: Thank you, your Honor.

13 MR. MUSCATO: Your Honor, may I ask another
14 question, please? I'm just wondering how much longer,
15 Mr. Tripi did say this to me, how much longer he thought
16 this presentation would be with respect to my client.

17 MR. TRIPI: Judge, I think playing the
18 videos, they are all between, and we're going to fast
19 forward them, all six to eight minutes, that is going to
20 take about maybe 40 minutes total between all of the
21 different angles. And then you have questions for me.
22 I'll answer your questions and I don't know how many you
23 have or what, but --

24 THE COURT: I'll have more by next
25 Wednesday.

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2 MR. TRIPI: I'm sure. That's the risk of
3 adjourning this as well, I suppose. But I also, just,
4 not to get lost in this, I wanted to show you some of
5 the weapons in his house, so those are a bunch of
6 photos, some that I added.

7 THE COURT: It sounds like you have another
8 hour and a half.

9 MR. TRIPI: Hour, hour and a half, I guess.
10 Hopefully, irrespective of the videos and your
11 questions, about a half hour of stuff I want to present.

12 THE COURT: Okay. Hold on one second. So
13 what I am going to propose you all go to the courthouse.
14 I'll come to Buffalo next week, especially, we'll have
15 two defendants, two sides, same side, and the
16 prosecution side, but defense attorneys all coming. I
17 think it makes more sense to do it in Buffalo. So let's
18 plan on 11 a.m. Wednesday, December 27th, at the Jackson
19 courthouse in Buffalo for the continuation of both Mr.
20 Ermin's and Mr. Barnes' detention hearing. And we will
21 communicate with Mr. Barnes' attorney so he is aware of
22 that as well.

23 MR. TRIPI: Will do. Thank you, your Honor.

24 MR. MUSCATO: Thank you, your Honor.

25 THE COURT: All right. Anything else from

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the defense?

MR. MUSCATO: We're all set. Thank you.

THE COURT: Okay. Anything else from the
government?

MR. TRIPI: No thank you, Judge.

THE COURT: Probation?

PROBATION: No thank you, your Honor.

THE COURT: Thank you very much, everybody.

MR. TRIPI: Have a good night.

* * *

CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript
of the record of proceedings in the above-entitled
matter.

S/ Karen J. Clark, RPR

Official Court Reporter